REMARKS

Applicant has carefully studied the Final Office Action of March 23, 2005, and offers the following remarks in response thereto.

Applicant initially traverses the propriety of the finality of the current Office Action. In the Office Action of November 10, 2004, the Patent Office objected to claim 25 as being allowable, but dependent on a rejected base claim. Applicant amended claim 20 to include the allowable subject matter of claim 25, and canceled claim 25 as redundant. The Patent Office now rejects amended claim 20. As the Patent Office is, in reality, rejecting objected to but allowable claim 25, the rejection constitutes a new ground of rejection, which was not necessitated by Applicant's amendment. As such, the finality of the current Office Action is improper. Applicant requests withdrawal of the finality of the current Office Action, and issuance of a new Office Action that substantively responds to the arguments set forth below.

Claims 1, 2, 4, 6, 17-24, 26-38, 41, and 51 were rejected under 35 U.S.C. § 102(e) as being anticipated by Nimura et al. (hereinafter "Nimura"). Applicant respectfully traverses. Anticipation requires that a single reference teach each and every element of the claim. Further, the elements of the reference must be arranged as claimed. MPEP § 2131. As the text of this rejection matches the text of the rejection from the previous response, Applicant responds identically. Applicant responds to the Patent Office's "Response to Arguments" section after the response to the rejection language.

Claim 1 recites "requesting, through a mobile terminal, traffic information pertaining to the learned route. . ." The Patent Office opines that this element is taught at Nimura, col. 6, lines 8-22. Applicant respectfully traverses. Nimura, col. 6, lines 8-22 states that the beacon receiver 26 receives beacon signals from data providing systems, including the advanced traffic information service. While the passage indicates the reception of traffic information, there is no request for the traffic information as recited in the claim. To this extent, Nimura does not show a recited claim element and cannot anticipate the claim.

Claims 2, 4, 6, and 17-19 depend from claim 1, and are not anticipated at least for the same reasons.

Claim 20 was previously amended to include the subject matter of previously objected to but allowable claim 25, and should have been in a condition for allowance based on the Patent Office's previous Office Action. The Patent Office offers no analysis as to why the allowable

PAGE 3/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44

subject matter of claim 25 is now not allowable. Applicant respectfully maintains that claim 20 is allowable for the reasons set forth in the prior Office Action regarding claim 25. Claims 21-24 depend from claim 20, and should be allowable as well.

Claim 26 recites "query a traffic information database. . . ." As explained above, Nimura does not teach requesting or querying anything for the traffic information because the traffic information is received by the beacon receiver 26 without further explanation. Thus, Nimura does not teach a claim element, and claim 26 is not anticipated by Nimura.

Claim 27 recites "query an associated traffic information database for traffic information." As discussed above, Nimura does not teach this element, and thus cannot anticipate claim 27.

Claims 28-31 depend from claim 27, and are allowable at least for the same reasons.

Claim 32 recites "request via the mobile terminal traffic information. . . ." As discussed above, Nimura does not teach this element, and thus cannot anticipate claim 32.

Claims 33-36 depend from claim 32, and are allowable at least for the same reasons.

Claim 37 recites "request traffic information. . . ." As discussed above, Nimura does not teach this element, and thus cannot anticipate claim 37.

Claim 38 depends from claim 37, and is patentable at least for the same reasons.

Claim 41 recites "traffic information logic adapted to form traffic information queries for transmission to the remote communications network. . . ." As discussed above, Nimura does not teach this element, and thus cannot anticipate claim 41.

Claim 51 recites providing traffic information "in response to receiving traffic information queries from given ones of the mobile terminals. . . ." As discussed above, Nimura does not teach this element, and thus cannot anticipate claim 51.

Applicant now addresses the Patent Office's "Response to Arguments", wherein the Patent Office asserts that Nimura does teach "requesting . . .traffic information pertaining to a learned route. . .and querying of a traffic information database. . . ." Specifically, the Patent Office refers Applicant to Nimura's abstract; summary; col. 2, lines 23-45; col. 6, lines 8-22; col. 8, line 66-col. 9, line 12; col. 17, lines 39-50; col. 17, line 61-col. 18, line 12; col. 35, line 57-col. 36, line 4; and col. 46, lines 34-43. Applicant addresses each of these in turn.

Nimura's abstract states in full:

PAGE 4/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44

> In traveling toward a destination, locus data for routes traveled by a vehicle is repeatedly learned and stored, and a route is identified in route searching using the stored locus data. The stored locus data may be rearranged or deleted, and undesired locus data is not used in route searching. Storage of locus data may be limited to certain areas so as not to store undesired locus data. The geographical coordinates of the stored locus data are corrected, as required, and locus data such as links are correctly shown on a map.

At no point in the abstract is there a teaching or suggestion that there is a request through the mobile terminal for traffic information. The abstract teaches that locus data for routes are learned, stored and updated. There is no requesting function described in the abstract. As such, the abstract does not show the claim elements argued above and does not establish anticipation for the claims.

Nimura's Summary includes the entirety of Nimura col. 2, lines 23-45 (thus application will not separately address Nimura col. 1, lines 23-45) and states in full:

> According to the present invention, the present position of a vehicle is detected, the data related to the present position that is detected is compared with the data related to a road or to an intersection, and the data for number of trips through the road or through the intersection is updated, depending upon the result of comparison. In searching a route from a point of departure of the vehicle or from near the present position of the vehicle to near the destination, furthermore, an intersection or a road of a large "passing volume" is found based upon the saved data for passage through the intersection or the road in previous trips and is preferentially used as a route. Thus, the road or the intersection through which many vehicle trips have been made is preferentially used as a guide route.
>
> Moreover, the present position of the vehicle is detected, the data related to the present position that is detected is compared with the data related to a road or an intersection, and, when the present position does not correspond to the road or to the intersection as a result of comparison, a new road or a new intersection corresponding to the present position is stored. Therefore, even a newly constructed road can be utilized to search a route provided data for the newly constructed road is learned and stored after having been traveled once.
>
> Besides, the present position of the vehicle is detected, the data related to the present position that is detected is compared with the data related to a road or to an intersection, and the data of traffic through the road or the intersection and the data related to the travel date and hour is updated and stored based upon the result of comparison. The stored data related to the road or the intersection may be selectively deleted when provided predetermined conditions related to the "passing volume", date and hour of travel are not satisfied. The data related to a road or the intersection may be deleted when data for a new road or a new intersection is stored in the storage unit, when the vehicle has arrived at the

PAGE 5/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44

destination, when the user has instructed the deletion, or when the storage unit has no more capacity. Therefore, the newly stored road or the intersection that is no longer necessary is determined to be deleted based upon predetermined conditions. Accordingly, only effective and important locus data is stored in the data storage unit; i.e., the data storage unit is effectively utilized to its maximum degree. As a result, the data storage unit stores only that locus data which is important and preferred by the user, so that the user can obtain an optimal guide route.

Furthermore, a position of the vehicle is detected with respect to a specified point. When the position of the vehicle that is detected is within a predetermined range from the specified point, the data related to the position of the vehicle that is detected is compared with the data related to a road or an intersection through which the vehicle will travel. It is then determined, relying upon this comparison, whether the position the vehicle corresponds to the road or to the intersection. Based upon the result of this determination, the position of the vehicle is stored as a new road or a new intersection.

Furthermore, the result of comparison is used for changing the data related to the frequency of passage through the road or the intersection, direction of travel and date and hour of travel. The specified point is a point specified by the operator or a point where the drive source of the vehicle is started or stopped.

Furthermore, the number of times of passage of the vehicle or the number of times of detecting the start or end of the drive source of the vehicle is stored for each specified point, and the size of the predetermined range based on the specified point is changed depending upon the number of times of detection. Therefore, the road near the specified point is preferentially stored. In searching a route from a point of departure of the vehicle or from near the present position of the vehicle to near the destination, furthermore, an intersection or a road of a large "passing volume" is preferentially used as a route based upon the data related to the frequency of passing through the intersection or the road.

Moreover, the data representing the present position of the vehicle is compared with the stored data related to the road or the intersection, and coordinate values of a geographical positions of the road or the intersection are corrected. The correction is effected depending upon the "passing volume" of the road or the intersection. Thus, the geographical positions of the roads or the intersections are correctly maintained, eliminating error in distinguishing between two adjacent roads or in distinguishing between the geographical positions of the intersections.

This summary section of Nimura does not teach or suggest requesting through a mobile terminal traffic information as recited in the claims. The summary does state "...and the data of traffic through the road or the intersection and the data related to the travel date and hour is updated and

PAGE 6/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44

stored based upon the result of comparison..." but this is not a request as recited in the claims. That is, "updating" data is not a request. Thus, the summary does not teach or suggest the claim elements argued above and does not establish anticipation for the claims.

Nimura col. 6, lines 8-22 states in full:

> Similarly, the beacon receiver unit 26 receives beacon signals from a data providing system such as VICS (Vehicle Information and Communication System) or the like, and the received data and the corrected data of GPS are output to the I/O data bus 28. The data transmitter/receiver unit 27 exchanges a variety of information related to the present position or the road conditions near the car relative to the bi-directional present position information offering system or the ATIS (advanced traffic information service), etc., by utilizing a cellular phone, FM multiplex signals or a telephone circuit. These items of information are used as detecting information for the car position or support information of movement. The beacon receiver unit 26 and the data transmitter/receiver unit 27 may be omitted.

This passage proves conclusively that there is no request for traffic information as recited in the claims. Specifically, this passage indicates that a data providing system, such as the VICS, broadcasts as a beacon signal traffic information. The beacon receiver unit 26 receives the beacon signals. Since the beacon signals are broadcast continually, there is no need for a request, and thus, there is no teaching or suggestion of a request for traffic information. The passage also states: "The data transmitter/receiver unit 27 exchanges a variety of information related to the present position or the road conditions near the car relative to the bi-directional present position information offering system or the ATIS (advanced traffic information service), etc., by utilizing a cellular phone, FM multiplex signals or a telephone circuit." However, while a cellular phone is mentioned, there is no explanation that a request for traffic information is made through the cellular phone, rather the device merely exchanges a variety of information. Thus, the passage does not teach requesting traffic information. Since the passage does not teach or suggest the claim elements argued above, it does not establish anticipation for the claims.

Nimura, col. 8, line 66-col 9, line 12 states in full:

> The traveled distance data ML represent a distance traveled by the vehicle and is based on the data from a distance sensor 23. The present position data PI is related to the present position and is input from a beacon receiver 26 or a data transmitter-receiver 27. The VICS data VD and ATIS data AD are input from the beacon receiver 26 or the data transmitter-receiver 27. The VICS data VD are used for correcting an error in the position of the vehicle detected by a GPS receiver 25. The ATIS data AD are used for determining traffic regulations and

PAGE 7/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44

> traffic jams in the area. When the map data is exchanged between the navigation device and the area monitoring center, relying upon the VICS data VD or the ATIS data AD, the guide route may be identified by using such data.

This passage again deals with the beacon nature of the VICS and the beacon receiver 26. While the passage does indicate that the ATIS data AD are used for determining traffic regulations, this is not a request for traffic information as recited in the claims. Thus, the cited passage does not teach or suggest the claim elements argued above, and does not establish anticipation for the claims.

Nimura col. 17, lines 39-50 states in full:

> Next, it is determined whether or not the user has requested input of a new point to the point list 66 (step SM9). This request of input is generated by the operation of a touch switch 34. On a map shown on the display 33, for example, a cursor is moved to specify a particular point. The specified cursor position is input to the point list 66 as a requested point PT (step SM11). When the new point is input or when the user is not requesting to input the new point, the next step SM13 is executed. At the step SM13, it is determined whether the user has requested an increase or decrease of the numerical values of a range for storing a desired point PT.

The cited passage does use the word "request", but the nature of the request is not a request for traffic information as recited in the claims. The request of the cited passage is the input of a new point on the point list. That is, the user is designating a route and the map moves to the point. Neither the inputting of the point, nor the redrawing of the map is a request for traffic information. As such, the cited passage does not teach the claim elements argued above, and does not establish anticipation for the claims.

Nimura, col. 17, line 61-col. 18, line 12 states in full:

> Therefore, the amount of locus data stored in the locus data storage unit 40 increases or decreases depending upon an increase or decrease of the value of the range of storage RP. When it is requested to change the value of the range of storage RP (step SM13), a circular area on a map surrounded by the radius of the range of storage RP is shown on the display 33 with the point PT as a center (step SM15). It is then determined again whether the value of the range RP of storage is increased or decreased (step SM19).

Again, while the passage does recite "request", the request discussed is not a request for traffic information as recited in the claims. Rather, the request is to resize the map drawn on display

PAGE 8/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44

33. Redrawing the map is not a request for traffic information. Likewise, information displayed on the redrawn map is not requested because that information is provided by the beacon signal independent of any request. Thus, the cited passage does not teach or suggest the claim elements argued above, and does not establish anticipation for the claims.

Nimura, col. 35, line 57-col. 36, line 4 states in full:

> When the locus route KV and the whole guide route 88 are shown in parallel on the display 33, a query is shown on the display 33 asking the user if he wishes to use the locus route KV (step SJ121). When the locus route KV is selected, the locus route KV is used in the route guide display. In this case, the remaining routes other than the locus route KV use the guide route 88. In FIG. 35, this is a portion of the guide route 88 from the node NOD24 to the destination node 80. When the locus route KV is different from the guide route 88 at the step SJ121, the locus route KV may be preferentially selected. However, the guide route 88 may be automatically selected only when the distance of the guide route 88 is very short in comparing the distance of a portion of the guide route 88 with the distance of the locus route KV.

The cited passage does not teach or suggest requesting traffic information as recited in the claims. While the passage does indicate that there is a query, this query is directed to the user (not a traffic information database). Again, the traffic information is provided by a beacon signal, and not through a request. Thus, the cited passage does not teach or suggest the claim elements argued above, and does not establish anticipation for the claims.

Nimura, col. 46, lines 34-43 states in full:

> FIG. 31 is a flow chart of a routine for confirming the storage of locus data (step SA21) of FIG. 9. First, when the user requests limitation of the geographical range of storage to limit locus data stored in the locus data storage unit 40 (step SQ1), it is determined if the start point nodes of the links, which are the locus data stored in the second RAM 6, lie within a range of storage of the radius RP with the points PT of point list 66 as centers. Here, the start point node is a node of the side closer to the point PT.

While the passage indicates a request, this request is not a request for traffic information as recited in the claims. This request is a limitation on the range of storage for the locus data stored. Any traffic information associated with this storage is not provided as part of a request, but rather is provided by the beacon signal. As such, the cited passage does not teach or suggest the claim elements argued above, and does not establish anticipation for the claims.

PAGE 9/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44

Applicant requests reconsideration of the rejection in light of the remarks presented herein. The Patent Office's citations to various portions of Nimura do not establish anticipation. Furthermore, the finality of the Office Action is premature and Applicant requests it be withdrawn. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

Benjamin S. Withrow
Registration No. 40,876
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: May 23, 2005
Attorney Docket: 7000-008

CERTIFICATE OF TRANSMISSION
I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED BELOW TO:

Examiner: Beaulieu, Yonel Art Unit: 3661 Fax: 703-872-9306

REBECCA ROOKS
Name of Sender

Rebecca A. Rooks
Signature

5.23.05
Date of Transmission

PAGE 10/10 * RCVD AT 5/23/2005 11:11:57 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:919 654 4521 * DURATION (mm-ss):03-44